



## Senate

General Assembly

**File No. 448**

February Session, 2016

Substitute Senate Bill No. 408

*Senate, April 4, 2016*

The Committee on Banking reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE PROTECTION OF DELINQUENT  
HOMEOWNERS AND THE EMERGENCY MORTGAGE AND LIEN  
DEBT ASSISTANCE PROGRAM.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 12-146 of the 2016 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective from passage*):

4 Unless the context otherwise requires, wherever used in this section,  
5 "tax" includes each property tax and each installment and part thereof  
6 due to a municipality as it may have been increased by interest, fees  
7 and charges. If any tax due in a single installment or if any installment  
8 of any tax due in two or more installments is not paid in full (1) on or  
9 before the first day of the month next succeeding the month in which it  
10 became due and payable, or if not due and payable on the first day of  
11 the month, (2) on or before the same date of the next succeeding month  
12 corresponding to that of the month on which it became due and  
13 payable, the whole or such part of such installment as is unpaid shall  
14 thereupon be delinquent and shall be subject to interest from the due  
15 date of such delinquent installment. Except for unpaid real estate taxes

16 the collection of which was, or is, deferred under the provisions of  
17 section 12-174, and any predecessor and successor thereto, which  
18 unpaid real estate taxes continue to be subject to the provisions of such  
19 deferred collection statutes, the delinquent portion of the principal of  
20 any tax shall be subject to interest at the rate of [eighteen] eight per  
21 cent per annum from the time when it became due and payable until  
22 the same is paid, subject to a minimum interest charge of two dollars  
23 per installment which any municipality, by vote of its legislative body,  
24 may elect not to impose, and provided, in any computation of such  
25 interest, under any provision of this section, each fractional part of a  
26 month in which any portion of the principal of such tax remains  
27 unpaid shall be considered to be equivalent to a whole month. Each  
28 addition of interest shall become, and shall be collectible as, a part of  
29 such tax. Interest shall accrue at said rate until payment of such taxes  
30 due notwithstanding the entry of any judgment in favor of the  
31 municipality against the taxpayer or the property of the taxpayer. The  
32 collector shall apply each partial payment to the wiping out of such  
33 interest before making any application thereof to the reduction of such  
34 principal. If any tax, at the time of assessment or because of a  
35 subsequent division, represents two or more items of property, the  
36 collector may receive payment in full of such part of the principal and  
37 interest of such tax as represents one or more of such items, even  
38 though interest in full on the entire amount of the principal of such tax  
39 has not been received up to the date of such payment; in which event,  
40 interest on the remaining portion of the principal of any such tax shall  
41 be computed, as the case may be, from the due date of such tax if no  
42 other payment after delinquency has been made or from the last date  
43 of payment of interest in full on the whole amount or unpaid balance  
44 of the principal of such delinquent tax if previous payment of interest  
45 has been made. Each collector shall keep a separate account of such  
46 interest and the time when the same has been received and shall pay  
47 over the same to the treasurer of the municipality of the collector as a  
48 part of such tax. No tax or installment thereof shall be construed to be  
49 delinquent under the provisions of this section if (A) such tax or  
50 installment was paid through a municipal electronic payment service

51 within the time allowed by statute for payment of such tax or  
52 installment, or (B) the envelope containing the amount due as such tax  
53 or installment, as received by the tax collector of the municipality to  
54 which such tax is payable, bears a postmark showing a date within the  
55 time allowed by statute for the payment of such tax or installment.  
56 Any municipality may, by vote of its legislative body, require that any  
57 delinquent property taxes shall be paid only in cash or by certified  
58 check or money order. Any municipality adopting such requirement  
59 may provide that such requirement shall only be applicable to  
60 delinquency exceeding a certain period in duration as determined by  
61 such municipality. Any municipality shall waive all or a portion of the  
62 interest due and payable under this section on a delinquent tax with  
63 respect to a taxpayer who has received compensation under chapter  
64 968 as a crime victim.

65 Sec. 2. Subsection (f) of section 12-157 of the 2016 supplement to the  
66 general statutes is repealed and the following is substituted in lieu  
67 thereof (*Effective from passage*):

68 (f) Within sixty days after such sale, the collector shall cause to be  
69 published in a newspaper having a daily general circulation in the  
70 town in which the real property is located, and shall send by certified  
71 mail, return receipt requested, to the delinquent taxpayer and each  
72 mortgagee, lienholder and other encumbrancer of record whose  
73 interest in such property is choate and is affected by such sale, a notice  
74 stating the date of the sale, the name and address of the purchaser, the  
75 amount the purchaser paid for the property and the date the  
76 redemption period will expire. The notice shall include a statement  
77 that if redemption does not take place by the date stated and in the  
78 manner provided by law, the delinquent taxpayer, and all mortgagees,  
79 lienholders and other encumbrancers who have received actual or  
80 constructive notice of such sale as provided by law, that their  
81 respective titles, mortgages, liens, restraints on alienation and other  
82 encumbrances in such property shall be extinguished. After such  
83 notice is published, and not later than six months after the date of the  
84 sale or within sixty days if the property was abandoned or meets other

85 conditions established by ordinance adopted by the legislative body of  
86 the municipality, if the delinquent taxpayer, mortgagee, lienholder or  
87 other encumbrancer whose interest in the property will be affected by  
88 such sale, pays to the collector, the amount of taxes, interest and  
89 charges which were due and owing at the time of the sale together  
90 with interest on the total purchase price paid by the purchaser at the  
91 rate of [eighteen] eight per cent per annum from the date of such sale  
92 plus any taxes and debts owed to the municipality that were not  
93 recovered by the sale and any additional charges under section 12-140,  
94 such deed, executed pursuant to subsection (e) of this section, shall be  
95 delivered to the collector by the town clerk for cancellation and the  
96 collector shall provide a certificate of satisfaction to the person paying  
97 the money who, if not the person whose primary duty it was to pay  
98 the tax or taxes, shall have a claim against the person whose primary  
99 duty it was to pay such tax or taxes for the amount so paid, and may  
100 add the same with the equivalent precedence, rate of interest and  
101 priority as the tax paid over other nongovernmental encumbrances but  
102 without precedence or priority over any state or municipal tax lien or  
103 any tax that was not yet due and payable when notice of the levy was  
104 first published to any claim for which he has security upon the  
105 property sold, provided the certificate of satisfaction is recorded on the  
106 land records but the interests of other persons in the property shall not  
107 be affected. Within ten days of receipt of such amounts in redemption  
108 of the levied property, the collector shall notify the purchaser by  
109 certified mail, return receipt requested, that the property has been  
110 redeemed and shall tender such payment, together with the amount  
111 held pursuant to subparagraph (A) of subdivision (1) of subsection (i)  
112 of this section, if any, to the purchaser. If the purchase money and  
113 interest are not paid within such redemption period, the deed shall be  
114 recorded and have full effect.

115 Sec. 3. Section 12-195h of the general statutes is repealed and the  
116 following is substituted in lieu thereof (*Effective July 1, 2016*):

117 (a) Any municipality, by resolution of its legislative body, as  
118 defined in section 1-1, may assign, for consideration, any and all liens

119 filed by the tax collector to secure unpaid taxes on real property  
120 exceeding five thousand dollars as provided under the provisions of  
121 this chapter. The consideration received by the municipality shall be  
122 negotiated between the municipality and the assignee.

123     **(b)** The assignee or assignees of such liens shall have and possess  
124 the same powers and rights at law or in equity as such municipality  
125 and municipality's tax collector would have had if the lien had not  
126 been assigned with regard to the precedence and priority of such lien,  
127 the accrual of interest and the fees and expenses of collection and of  
128 preparing and recording the assignment. The assignee shall have the  
129 [same] rights to enforce such liens [as any private party holding a lien  
130 on real property including, but not limited to,] through foreclosure and  
131 a suit on the debt. Before enforcing such liens through foreclosure and  
132 a suit on the debt, the assignee shall evaluate in good faith each  
133 homeowner's willingness and ability to repay the debt over a period of  
134 not fewer than twenty-four months. Upon commencing an action for  
135 foreclosure or a suit on the debt, the assignee shall file an affidavit with  
136 the court indicating (1) any and all efforts made by the assignee to  
137 contact the homeowner regarding repayment, and (2) the assignee's  
138 good faith evaluation of the homeowner's willingness and ability to  
139 repay the debt over a period of not fewer than twenty-four months.

140     **(c)** Notwithstanding any provision of the general statutes, each  
141 assignee shall provide a payoff statement, as defined in section 49-8a,  
142 in the same manner as a mortgagee in accordance with the  
143 requirements of section 49-10a.

144     **(d)** In any foreclosure action or suit on the debt, any attorney's fees  
145 awarded to the assignee may not exceed one thousand five hundred  
146 dollars for an uncontested suit, or one thousand five hundred dollars  
147 plus a rate of one hundred dollars per hour for any work reasonably  
148 performed to prosecute a suit involving prolonged or complex  
149 litigation. Nothing in this subsection shall be construed to require the  
150 court to award attorney's fees to any party.

151     **(e)** The assignee, or any subsequent assignee, shall provide written

152 notice of an assignment, not later than thirty days after the date of such  
153 assignment, to any holder of a mortgage, on the real property that is  
154 the subject of the assignment, provided such holder is of record as of  
155 the date of such assignment. Such notice shall include information  
156 sufficient to identify (1) the property that is subject to the lien and in  
157 which the holder has an interest, (2) the name and addresses of the  
158 assignee, and (3) the amount of unpaid taxes, interest and fees being  
159 assigned relative to the subject property as of the date of the  
160 assignment.

161 (f) Not less than sixty days prior to commencing an action to enforce  
162 a lien through foreclosure under this section, the assignee shall  
163 provide a written notice, by first class mail to the holders of all first or  
164 second security interests on the property subject to the lien that were  
165 recorded before the date on which the assessment of the lien sought to  
166 be enforced became delinquent, which shall set forth the following: (1)  
167 The amount of unpaid debt owed to the assignee as of the date of the  
168 notice; (2) the amount of any attorney's fees and costs incurred by the  
169 assignee in the enforcement of the lien as of the date of the notice; (3) a  
170 statement of the assignee's intention to foreclose the lien if the amounts  
171 set forth pursuant to subdivisions (1) and (2) of this subsection are not  
172 paid to the assignee on or before sixty days after the date on which the  
173 notice is provided; (4) the assignee's contact information, including,  
174 but not limited to, (A) the name of the assignee, and (B) the assignee's  
175 mailing address, telephone number and electronic mail address, if any;  
176 and (5) instructions concerning the acceptable means of making a  
177 payment on the amounts owing to the assignee as set forth pursuant to  
178 subdivisions (1) and (2) of this subsection. Any notice required under  
179 this subsection shall be effective upon the date such notice is provided.

180 (g) When providing the written notice required under subsection (f)  
181 of this section, the assignee may rely on the last recorded security  
182 interest of record in identifying the name and mailing address of the  
183 holder of such interest, unless the holder of such interest is the plaintiff  
184 in an action pending in Superior Court to enforce such interest, in  
185 which case the assignee shall provide the written notice to the attorney

186 appearing on behalf of the plaintiff.

187 (h) Each aspect of a foreclosure, sale or other disposition under this  
188 section, including, but not limited to, the method, advertising, time,  
189 date, place and terms, shall be commercially reasonable.

190 (i) A violation of this section shall be deemed an unfair or deceptive  
191 trade practice under subsection (a) of section 42-110b.

192 Sec. 4. Section 8-265cc of the general statutes is repealed and the  
193 following is substituted in lieu thereof (*Effective July 1, 2016*):

194 As used in this section and sections [8-265cc] 8-265dd to 8-265kk,  
195 inclusive, as amended by this act:

196 (1) "Aggregate family income" means the total income of persons  
197 residing in the same household as the mortgagor and any other  
198 resident of the household declared by the mortgagor as a dependent  
199 for federal tax purposes, from whatever source derived, including, but  
200 not limited to, pensions, annuities, retirement benefits and Social  
201 Security benefits, provided the authority may exclude from income (A)  
202 reasonable allowances for dependents, (B) reasonable allowances for  
203 medical expenses, (C) all or any part of the earnings of gainfully  
204 employed minors or family members other than the chief wage earner,  
205 (D) income not regularly received, and (E) such other expenses as the  
206 authority may allow;

207 (2) "Authority" means the Connecticut Housing Finance Authority  
208 created under section 8-244;

209 (3) "Mortgage" means a mortgage deed or other instrument which  
210 constitutes a first or second consensual lien, including, but not limited  
211 to, a reverse mortgage or a home equity conversion mortgage, on one-  
212 to-four family owner-occupied residential real property located in this  
213 state, including, but not limited to, a single-family unit in a common  
214 interest community;

215 (4) "Mortgagee" means the original lender under a mortgage, or its

216 agents, successors [,] or assigns;

217 (5) "Mortgagor" means the owner-occupant of a one-to-four family  
218 residential real property located in this state, including, but not limited  
219 to, a single family unit in a common interest community, who is also  
220 the borrower under a mortgage encumbering such real property;

221 (6) "Housing expense" means the sum of the mortgagor's monthly  
222 maintenance expense in a common interest community, utility  
223 expense, heating expense, hazard insurance payment, taxes and  
224 required mortgage payment, including escrows;

225 (7) "Financial hardship due to circumstances beyond the  
226 mortgagor's control" means a significant reduction of aggregate family  
227 household income or increase in expenses which reasonably cannot be  
228 or could not have been alleviated by the liquidation of assets by the  
229 mortgagor as determined by the Connecticut Housing Finance  
230 Authority, including, but not limited to, a reduction resulting from (A)  
231 (i) unemployment or underemployment of one or more of the  
232 mortgagors; (ii) a loss, reduction or delay in receipt of such federal,  
233 state or municipal benefits as Social Security, supplemental security  
234 income, public assistance and government pensions; (iii) a loss,  
235 reduction or delay in receipt of such private benefits as pension,  
236 disability, annuity or retirement benefits; (iv) divorce or a loss of  
237 support payments; (v) disability, illness or death of a mortgagor; or (B)  
238 (i) a significant increase in the dollar amount of the periodic payments  
239 required by the mortgage; (ii) an unanticipated rise in housing  
240 expenses; or (iii) expenses related to the disability, illness or death of a  
241 member of the mortgagor's family, but does not include expenses  
242 related to the accumulation of credit or installment debt incurred for  
243 recreational or nonessential items prior to the occurrence of the alleged  
244 circumstances beyond the mortgagor's control in an amount that  
245 would have caused the mortgagor's total debt service to exceed sixty  
246 per cent of aggregate family income at that time;

247 (8) "Consumer credit counseling agency" means a nonprofit  
248 corporation or governmental agency located in this state which has



249 been designated by the authority to provide homeowners' emergency  
250 mortgage assistance program counseling. A qualified consumer credit  
251 counseling agency must either be certified as a housing counseling  
252 agency by the federal Department of Housing and Urban  
253 Development or otherwise determined accepted by the authority;

254 (9) "Foreclosure mediation program" means the foreclosure  
255 mediation program established by section 49-31m; [and]

256 (10) "Periodic payments" means principal, interest, taxes, insurance  
257 and, if applicable, condominium fees;

258 (11) "Lien debt" means a tax or sewer lien, as described in section 12-  
259 172, or an assessment and other sums due to an association under  
260 section 47-258;

261 (12) "Lienholder" means the relevant association, municipality or  
262 subsequent assignee of a lien debt; and

263 (13) "Homeowner" means the owner-occupant of residential real  
264 property subject to a lien debt.

265 Sec. 5. Subsection (a) of section 8-265dd of the general statutes is  
266 repealed and the following is substituted in lieu thereof (*Effective July*  
267 *1, 2016*):

268 (a) Not later than January 1, 1994, the authority shall establish,  
269 within available funds, a program to provide emergency mortgage  
270 assistance payments to mortgagors in accordance with the provisions  
271 of sections 8-265cc to 8-265kk, inclusive, as amended by this act. On  
272 and after July 1, 2016, the program shall, within available funds,  
273 provide lien debt assistance payments to homeowners in accordance  
274 with said sections. Any necessary and related administrative and  
275 operational expenses incurred by the authority in implementing the  
276 program may be paid from funds made available for the program.

277 Sec. 6. Section 8-265ff of the general statutes is repealed and the  
278 following is substituted in lieu thereof (*Effective July 1, 2016*):

279 (a) Any mortgagor or homeowner may apply for emergency  
280 mortgage or lien debt assistance payments under sections 8-265cc to 8-  
281 265kk, inclusive, as amended by this act, if such mortgagor or  
282 homeowner (1) has received notice of intent to foreclose as provided in  
283 section 8-265ee, or (2) (A) is sixty days or more delinquent on a  
284 mortgage or lien debt, or (B) such mortgagor or homeowner  
285 anticipates that he will be sixty days or more delinquent on a mortgage  
286 or lien debt based on financial hardship beyond such mortgagor's or  
287 homeowner's control, provided the authority determines that such  
288 mortgagor or homeowner will be so delinquent. As part of the  
289 application process, the authority may refer the applicant to a  
290 counseling agency approved by the United States Department of  
291 Housing and Urban Development.

292 (b) If the mortgagor or homeowner applies for emergency mortgage  
293 or lien debt assistance payments under sections 8-265cc to 8-265kk,  
294 inclusive, as amended by this act, the authority shall, no later than  
295 eight business days after the date of receipt of such application, notify  
296 all of the mortgagees or lienholders listed on the application holding a  
297 mortgage or lien on the mortgagor's or homeowner's real property.

298 (c) The mortgagor or homeowner shall apply for a loan on the form  
299 provided by the authority. The mortgagor or homeowner shall  
300 complete and sign the application subject to the penalty for false  
301 statement under section 53a-157b.

302 (d) The mortgagor or homeowner shall provide the authority with  
303 full disclosure of all assets and liabilities, whether singly or jointly  
304 held, and all household income regardless of source. For purposes of  
305 this subsection, both of the following are included as assets:

306 (1) The sum of the household's savings and checking accounts,  
307 market value of stocks, bonds and other securities, other capital  
308 investments, pensions and retirement funds valued in an amount  
309 greater than one hundred thousand dollars, personal property and  
310 equity in real property including the subject mortgage property.  
311 Income derived from family assets shall be considered as income.

312 Equity is the difference between the market value of the property and  
313 the total outstanding principal of any loans secured by the property  
314 and other liens.

315 (2) Lump-sum additions to family assets such as inheritances,  
316 capital gains, insurance payments included under health, accident,  
317 hazard or worker's compensation policies and settlements, verdicts or  
318 awards for personal or property losses or transfer of assets without  
319 consideration within one year of the time of application. Pending  
320 claims for such items must be identified by the homeowner as  
321 contingent assets.

322 (e) The authority shall make a determination of eligibility for  
323 emergency mortgage or lien debt assistance payments by the date  
324 thirty calendar days after the date of receipt of the mortgagor's or  
325 homeowner's application. During said thirty-day period no judgment  
326 of strict foreclosure or any judgment ordering foreclosure by sale shall  
327 be entered in any action for the foreclosure of any mortgage or lien  
328 that any mortgagee or lienholder holds on the mortgagor's or  
329 homeowner's real property, except that a judgment of strict foreclosure  
330 or ordering foreclosure by sale may be entered in a foreclosure action  
331 commenced by an association pursuant to section 47-258. No  
332 emergency mortgage or lien debt assistance payments may be  
333 provided unless the authority finds that:

334 (1) The real property securing the mortgage or underlying the lien  
335 debt is a one-to-four family owner-occupied residence, including, but  
336 not limited to, a single family unit in a common interest community, is  
337 the principal residence of the mortgagor or homeowner and is located  
338 in this state;

339 (2) Payments, including amounts for taxes and insurance payments,  
340 including mortgage insurance, or for charges, assessments and fees  
341 associated with a condominium or common interest community, as  
342 such terms are defined in section 47-202, or any combination of such  
343 payments, whether or not such payments are made into escrow or  
344 impound accounts as reserves, owed by the mortgagor under any

345 mortgage or homeowner under a lien debt on such real property have  
346 been delinquent and the mortgagee, taxing authority, lienholder or  
347 unit owners association has indicated to the mortgagor or homeowner  
348 its intention to foreclose;

349 (3) The mortgagor or homeowner is a resident of this state and is  
350 suffering financial hardship which renders the mortgagor or  
351 homeowner unable to correct the delinquency or delinquencies within  
352 a reasonable time and make full mortgage or lien debt payments. For  
353 the purposes of subdivision (7) of this subsection, in order to  
354 determine whether the financial hardship is due to circumstances  
355 beyond the mortgagor's or homeowner's control, the authority may  
356 consider information regarding the mortgagor's or homeowner's  
357 employment, credit history and current and past household income,  
358 assets, total debt service, net worth, eligibility for other types of  
359 assistance and any other criteria or related factors it deems necessary  
360 and relevant;

361 (4) There is a reasonable prospect that the mortgagor will be able to  
362 resume full mortgage payments on the original, modified or  
363 refinanced mortgage within sixty months after the beginning of the  
364 period in which emergency mortgage assistance payments are  
365 provided in accordance with a written plan formulated or approved by  
366 the authority and pay the mortgage in full in level monthly payments  
367 of principal and interest, subject only to payment changes as provided  
368 in the mortgage, by its maturity date or, in the case of a lien debt, the  
369 homeowner is able to resume regular tax or usage payments to the  
370 lienholder immediately after emergency lien debt assistance payments  
371 are provided;

372 (5) The mortgagor or homeowner has applied to the authority for  
373 emergency mortgage or lien debt assistance payments on an  
374 application form prescribed by the authority [which] that includes a  
375 financial statement disclosing all assets and liabilities of the mortgagor  
376 or homeowner, whether singly or jointly held, and all household  
377 income regardless of source;

378 (6) Based on the financial statement, the mortgagor or homeowner  
379 has insufficient household income or net worth to correct the  
380 delinquency or delinquencies within a reasonable period of time and  
381 make full mortgage or lien debt payments;

382 (7) There is a reasonable prospect that the mortgagor or  
383 homeowner, as determined by the authority, will be able to repay the  
384 emergency mortgage or lien debt assistance within a reasonable  
385 amount of time under the terms of section 8-265hh, as amended by this  
386 act, including, but not limited to, through a refinancing of the  
387 mortgage, and, in the case of a mortgagor, the authority finds that,  
388 except for the current delinquency, the mortgagor has had a favorable  
389 residential mortgage credit history for the previous two years or  
390 period of ownership, whichever is less. For the purposes of this  
391 subdivision, if a mortgagor has been more than thirty days in arrears  
392 four or more times on a residential mortgage within the previous year,  
393 the mortgagor shall be ineligible for emergency mortgage assistance  
394 payments unless the mortgagor can demonstrate that the prior  
395 delinquency was the result of financial hardship due to circumstances  
396 beyond the mortgagor's control. In making a determination with  
397 regard to a mortgagor under this subsection, the authority may  
398 consider information regarding the structure of the mortgage, its  
399 repayment schedule, the length of time the mortgagor has lived in his  
400 or her home, and any other relevant factors or criteria it deems  
401 appropriate. The authority may not disqualify a mortgagor or  
402 homeowner based solely on such mortgagor's or homeowner's  
403 discharge of a debt through a bankruptcy proceeding;

404 (8) The mortgagee or lienholder is not otherwise prevented by law  
405 from foreclosing upon the mortgage or lien;

406 (9) The mortgagor or homeowner has not mortgaged the real  
407 property for commercial or business purposes;

408 (10) (A) The mortgagor or homeowner has not previously received  
409 emergency mortgage or lien debt assistance payments from the  
410 authority, provided a mortgagor or homeowner who has previously

411 received such payments shall be eligible to reapply if the mortgagor or  
412 homeowner has reinstated the mortgage or lien debt, and (B) the  
413 mortgagor or homeowner shall not have been delinquent for at least  
414 six consecutive months immediately following such reinstatement;

415 (11) The mortgagor is not in default under the mortgage except for  
416 the monetary delinquency referred to in subdivision (2) of this  
417 subsection; and

418 (12) The mortgagor or homeowner meets such other procedural  
419 requirements as the authority may establish.

420 Sec. 7. Section 8-265gg of the general statutes is repealed and the  
421 following is substituted in lieu thereof (*Effective July 1, 2016*):

422 (a) If the authority approves a mortgagor or homeowner for  
423 assistance under the provisions of section 8-265ff, as amended by this  
424 act, the authority shall make monthly emergency mortgage or lien debt  
425 assistance payments directly to each mortgagee or homeowner secured  
426 by the mortgagor's or homeowner's real property for a period not to  
427 exceed sixty months, either consecutively or nonconsecutively, except  
428 no such payments shall be made after sixty months have passed since  
429 the date of the initial payment. The total monthly payment made by  
430 the authority, to or on behalf of a mortgagor or homeowner under  
431 subsection (c) of this section, shall be not more than twenty-eight per  
432 cent of one hundred forty per cent of annual area median income, as  
433 published by the United States Department of Housing and Urban  
434 Development, divided by twelve. Upon receipt of payment in full from  
435 a mortgagor or homeowner of the monthly amount established under  
436 subsection (b) of this section, the authority shall pay to each mortgagee  
437 or lienholder the full amount then due to the mortgagee or lienholder  
438 pursuant to the terms of the mortgage or lien debt without regard to  
439 any acceleration under the mortgage or lien debt. Such payments shall  
440 include, but not be limited to, principal, interest, taxes, assessments  
441 and insurance premiums. The initial payment made by the authority to  
442 each mortgagee or homeowner may be an amount which pays all  
443 arrearages and pays reasonable costs and reasonable attorney's fees

444 incurred by the mortgagee or homeowner in connection with  
445 foreclosure of the mortgage or lien.

446 (b) A mortgagor or homeowner on whose behalf the authority is  
447 making emergency mortgage or lien debt assistance payments shall,  
448 during the period in which such assistance is provided, make monthly  
449 payments to the authority in lieu of the mortgagor's or homeowner's  
450 monthly mortgage payments or lien debt payments. Such payments to  
451 the authority shall be in an amount which will cause the mortgagor's  
452 or homeowner's total housing expense to be less than or equal to  
453 thirty-five per cent of the mortgagor's or homeowner's aggregate  
454 family income. The mortgagor or homeowner shall make such  
455 payments to the authority not later than seven days before each  
456 mortgage payment or lien debt payment is due to the mortgagee or  
457 lienholder.

458 (c) The amount by which the emergency mortgage or lien debt  
459 assistance payments made by the authority to the mortgagee or  
460 lienholder exceeds the payments made by the mortgagor or  
461 homeowner to the authority shall be a loan in that amount made by  
462 the authority to the mortgagor or homeowner. Any such loan shall be  
463 evidenced by such documents as the authority may require and shall  
464 be subject to repayment with interest and secured as provided in  
465 section 8-265hh, as amended by this act.

466 (d) The authority shall establish procedures for periodic review of  
467 the mortgagor's or homeowner's financial circumstances for the  
468 purpose of determining the necessity for continuation, termination or  
469 adjustment of the amount of emergency mortgage or lien debt  
470 assistance payments or adjustment of the payments by the mortgagor  
471 or homeowner pursuant to subsection (b) of this section. Payments  
472 shall be discontinued when the authority determines that, due to  
473 changes in the mortgagor's or homeowner's financial condition, the  
474 payments are no longer necessary in accordance with the standards  
475 contained in section 8-265ff, as amended by this act, or the expiration  
476 of the sixty-month period of a mortgagor or homeowner eligibility for

477 such payments under subsection (e) of section 8-265ff, as amended by  
478 this act, whichever is sooner, and a foreclosure of the mortgagor's  
479 mortgage or homeowner's lien may, at any time thereafter, proceed  
480 without further restriction or requirement under sections 8-265cc to 8-  
481 265hh, inclusive, as amended by this act. The authority may adjust  
482 payments by the mortgagor or homeowner pursuant to subsection (b)  
483 of this section based on a review under this subsection.

484 (e) If the mortgagor or homeowner fails to pay to the authority any  
485 amounts due under subsection (b) of this section within seven days of  
486 the date due to the authority, the authority shall review the  
487 mortgagor's or homeowner's financial circumstances to determine  
488 whether the delinquency is the result of additional financial hardship  
489 due to circumstances beyond the mortgagor's or homeowner's control.  
490 If the delinquency is not the result of additional financial hardship due  
491 to circumstances beyond the mortgagor's or homeowner's control in  
492 the mortgagor's or homeowner's financial circumstances, the authority  
493 shall terminate emergency mortgage or lien debt assistance payments  
494 and the foreclosure of the mortgagor's mortgage or homeowner's lien  
495 may, at [anytime] any time thereafter, continue without any further  
496 restriction or requirement under sections 8-265cc to 8-265kk, inclusive,  
497 as amended by this act. If the delinquency is the result of a change in  
498 the mortgagor's or homeowner's financial circumstances, the authority  
499 may modify the mortgagor's or homeowner's required monthly  
500 payments to the authority.

501 (f) If any mortgagee or lienholder scheduled to receive payments  
502 from the authority under the provisions of sections 8-265cc to 8-265kk,  
503 inclusive, as amended by this act, fails to receive the full amount of  
504 such payment from the authority within thirty days of the scheduled  
505 due date, or if the mortgagor or homeowner fails to observe and  
506 perform all of the terms, covenants and conditions of the mortgage or  
507 lien, the mortgagee or lienholder shall provide a fifteen-day notice to  
508 the authority and the foreclosure of the mortgagor's mortgage or  
509 homeowner's lien may, at any time thereafter, proceed without any  
510 further restriction or requirement under sections 8-265cc to 8-265kk,



511 inclusive, as amended by this act.

512 Sec. 8. Section 8-265hh of the general statutes is repealed and the  
513 following is substituted in lieu thereof (*Effective July 1, 2016*):

514 (a) Upon approval of emergency mortgage or lien debt assistance  
515 payments, the authority shall enter into an agreement with the  
516 mortgagor or homeowner for repayment of all such assistance with  
517 interest as provided in this section. The agreement shall provide for  
518 monthly payments by the mortgagor or homeowner after emergency  
519 mortgage or lien debt assistance payments have ended and shall be  
520 subject to the following provisions:

521 (1) If the mortgagor's or homeowner's total housing expense,  
522 including projected repayments for [mortgage] assistance under this  
523 section, is greater than thirty-five per cent of the mortgagor's or  
524 homeowner's aggregate family income, repayment of the emergency  
525 mortgage or lien debt assistance payments shall be deferred until such  
526 total housing expense, including projected repayments for [mortgage]  
527 assistance under this section, is less than or equal to thirty-five per cent  
528 of such aggregate family income;

529 (2) If repayment of emergency mortgage or lien debt assistance  
530 payments is not made by the date the mortgage or lien is paid in full,  
531 the mortgagor or homeowner shall make monthly payments to the  
532 authority in an amount not less than the monthly mortgage or lien  
533 payment until such assistance is repaid;

534 (3) Interest shall accrue on all emergency mortgage or lien debt  
535 assistance payments made by the authority at a rate based upon the  
536 cost of funds to the state periodically determined by the State  
537 Treasurer in consultation with the authority. Interest shall start to  
538 accrue whenever the mortgagor or homeowner is required to  
539 commence repayment under this section.

540 (b) Repayment of amounts owed to the authority from a mortgagor  
541 or homeowner under the provisions of sections 8-265cc to 8-265kk,

542 inclusive, as amended by this act, shall be secured by a mortgage on  
543 the mortgagor's or homeowner's real property, provided [said] such  
544 mortgage shall not be deemed to take priority over any other mortgage  
545 or lien in effect against such property on the date the emergency  
546 mortgage is recorded. The authority may allow subordination of its  
547 mortgage if such subordination is required to permit the mortgagor or  
548 homeowner to obtain a home improvement loan for repairs necessary  
549 to preserve the property.

550 (c) The authority shall establish written procedures for periodic  
551 review of the mortgagor's or homeowner's financial circumstances to  
552 determine the amounts of repayment required under this section.

553 (d) All moneys received by the authority from mortgagors or  
554 homeowners for repayment of emergency mortgage or lien debt  
555 assistance payments shall be paid to the authority, deposited in such  
556 funds or accounts as the authority may establish from time to time for  
557 such purpose and be used solely for the purposes of the program  
558 established pursuant to sections 8-265cc to 8-265kk, inclusive, as  
559 amended by this act.

560 (e) Any mortgagor or homeowner who misrepresents any financial  
561 or other pertinent information in conjunction with the filing of an  
562 application for emergency mortgage or lien debt assistance or  
563 modification of such assistance, may be denied assistance and required  
564 to immediately repay any amount of assistance already made. The  
565 mortgagee or lienholder may, at any time thereafter, take any legal  
566 action to enforce the mortgage or lien without further restrictions or  
567 requirements.

568 (f) The authority may take any action it deems appropriate to  
569 recover emergency mortgage or lien debt assistance when the  
570 mortgagor or homeowner fails to repay such assistance under the  
571 terms and conditions established under this section.

572 Sec. 9. Section 8-265ii of the general statutes is repealed and the  
573 following is substituted in lieu thereof (*Effective July 1, 2016*):

574 The Connecticut Housing Finance Authority shall adopt procedures  
 575 in accordance with section 1-121 to implement the provisions of  
 576 sections 8-265cc to 8-265hh, inclusive, as amended by this act. Such  
 577 procedures shall include the establishment of a process for notification  
 578 to eligible mortgagors or homeowners of the availability of funds  
 579 under sections 8-265cc to 8-265kk, inclusive, as amended by this act,  
 580 and for notification to the mortgagee or lienholder that an application  
 581 has been received by or on behalf of the mortgagor or homeowner and  
 582 of the authority's determination of eligibility.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	12-146
Sec. 2	<i>from passage</i>	12-157(f)
Sec. 3	<i>July 1, 2016</i>	12-195h
Sec. 4	<i>July 1, 2016</i>	8-265cc
Sec. 5	<i>July 1, 2016</i>	8-265dd(a)
Sec. 6	<i>July 1, 2016</i>	8-265ff
Sec. 7	<i>July 1, 2016</i>	8-265gg
Sec. 8	<i>July 1, 2016</i>	8-265hh
Sec. 9	<i>July 1, 2016</i>	8-265ii

**Statement of Legislative Commissioners:**

In Section 3, "same" was bracketed for clarity; in Section 3(f), "sent" was changed to "provided" for consistency with other provisions of the Subsec.; in Section 6(e)(4), "relevant municipality or association" was changed to "lienholder" for consistency with other sections of the bill, "homeowner or" was deleted and "the homeowner is" was added after "lien debt," for clarity; in Section 6(e)(7), ", but not limited to,", ", in the case of a mortgagor,", and "with regard to a mortgagor" were added for clarity; in Section (6)(e)(10), the subdivision was divided into two subparagraphs for clarity; in Section 7, subsections (a) and (b) of section 8-265gg of the general statutes were added to conform with the changes being made in Section 7.

**BA** Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

### ***OFA Fiscal Note***

#### ***State Impact:***

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 17 \$</b>	<b>FY 18 \$</b>
Treasurer, Debt Serv.	GF - Acceleration of Debt Service Costs	Potential	Potential
Connecticut Housing Finance Authority (CHFA)	EMAP Funds-Cost	See Below	See Below

#### ***Municipal Impact:***

<b>Municipalities</b>	<b>Effect</b>	<b>FY 17 \$</b>	<b>FY 18 \$</b>
All Municipalities	Revenue Loss	Potential Significant	Potential Significant

### ***Explanation***

The bill makes changes to the Emergency Mortgage Assistance Program. It also 1) reduces, from 18% to 8%, the annual interest rate municipalities must charge for delinquent property taxes, and other delinquent fees and assessments, and 2) prevents municipalities from placing a lien valued at \$5,000 or less on a property.

The bill expands the Emergency Mortgage Assistance Program (EMAP) to include 1) reverse mortgages and home equity conversions and 2) assistance payments to homeowners subject to lien debt. This will result in an increase in applications to EMAP. EMAP is supported by General Obligation (GO) bond funds as well as repayments and interest collected from the program.

Future General Fund debt service costs may be incurred sooner under the bill to the degree that the bill causes authorized GO bond funds to be expended more rapidly than they otherwise would have

been.

As of March 31<sup>st</sup>, there is a balance of (1) \$3.1 million available in the EMAP program from previously allocated funds and repayments and (2) an unallocated bond balance of \$17 million.<sup>1</sup>

As background, in FY 15 the current EMAP program funded \$7.8 million in assistance for 198 loans. In FY 14, the program funded \$11.6 million in assistance for 247 loans. Through March 30<sup>th</sup>, the program funded \$1.6 million in assistance for 38 loans.

The bill also results in a revenue loss to all municipalities, and is potentially significant in larger municipalities. The table below shows the estimated FY 15 impact of reducing the annual interest rate on delinquent property taxes in three municipalities.

**FY 15 Est. Revenue Loss Due to Change in Delinquent Property  
Tax Interest Rate<sup>2</sup>**

<b>Municipality</b>	<b>FY 15 Est. Revenue Current Law \$</b>	<b>FY 15 Est. Revenue Under Bill's Provisions \$</b>	<b>Revenue Loss \$</b>
Bridgeport	\$2,900,000	1,280,000	1,620,000
Manchester	1,285,000	571,111	713,000
Burlington	144,399	64,177	80,222

The revenue loss indicated above does not include the impact of: 1) reducing the interest rate on other fees besides property taxes, or 2)

<sup>1</sup> PA 12-189 authorized \$60 million to EMAP, of which \$23 million was allocated and \$20 million was cancelled under PA 15-1 JSS, for a current remaining unallocated balance of \$17 million.

<sup>2</sup> "FY 15 est. revenue current law" obtained from the FY 15 Comprehensive Annual Financial Reviews for the Cities of Bridgeport and Manchester, and the Town of Burlington.

prohibiting liens of \$5,000 or less.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sSB 408*****AN ACT CONCERNING THE PROTECTION OF DELINQUENT HOMEOWNERS AND THE EMERGENCY MORTGAGE AND LIEN DEBT ASSISTANCE PROGRAM.*****SUMMARY:**

This bill reduces, from 18% to 8%, the annual interest rate that a municipality must charge on (1) delinquent property taxes and (2) property sold for tax purposes. In doing so, it reduces the interest rate on certain other delinquent taxes and assessments that are linked to the interest rate towns charge on delinquent property taxes.

It prohibits municipalities from assigning tax liens valued at \$5,000 or less and imposes new restrictions and requirements on the entities that purchase tax liens from municipalities (i.e., assignees). The bill:

1. limits an assignee's right to enforce a tax lien to foreclosure and a law suit on the debt;
2. requires the assignee to (a) conduct a repayment evaluation in good faith (i.e. honesty in fact), (b) provide a written payoff statement upon request, and (c) meet specific written notification requirements before beginning the foreclosure process (see below);
3. requires the assignee, upon beginning a foreclosure action, to file an affidavit demonstrating that it conducted the good faith repayment evaluation;
4. limits attorney's fees that may be awarded to an assignee;
5. specifies that all aspects of a tax lien foreclosure by an assignee must be commercially reasonable (The bill does not define

“commercially reasonable.”); and

6. specifies that a violation of any of these requirements is deemed an unfair or deceptive trade practice under the Connecticut Unfair Trade Practices Act.

The bill makes three main changes to the existing Emergency Mortgage Assistance Program (EMAP) established by the Connecticut Housing Finance Authority (CHFA). (EMAP provides temporary monthly mortgage payment assistance to eligible mortgagors of one-to-four family owner-occupied residential property who are facing foreclosure due to financial hardship.)

First, it expands the types of mortgages that are eligible for an EMAP loan to include reverse mortgages and home equity conversion mortgages.

Second, it requires CHFA, starting July 1, 2016 and within available funds, to (1) provide assistance payments to “homeowners” (i.e., owner-occupants) of residential property subject to “lien debt” (i.e., tax or sewer liens or condominium association assessments or fees) and (2) adopt procedures to implement these changes. The bill generally extends existing EMAP procedural and program requirements to also apply to lien debt assistance payments.

Third, it prohibits CHFA from disqualifying a mortgagor or homeowner from receiving mortgage or lien debt assistance based solely on the discharge of his or her debt through bankruptcy.

The bill also makes other minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2016, except the provisions on delinquent property tax interest rates are effective upon passage.

## **§§ 1 & 2 — INTEREST ON DELINQUENT TAXES**

### ***Delinquent Property Taxes***

The bill reduces, from 18% to 8%, the annual interest rate that a



municipality must charge on delinquent property taxes (see COMMENT). But it retains the 18% interest rate on delinquent personal property tax used in rendering certain telecommunications services (CGS § 12-80a). By law, property taxes are subject to interest charges from the time they become due and payable until paid in full.

### ***Other Delinquent Taxes and Assessments***

The bill also reduces the interest rate on other delinquent taxes and assessments that are linked to the interest rate towns charge on delinquent property taxes. This includes (1) sewer system installation and connection assessments (CGS §§ 7-254, 7-258, and 22a-506); (2) the special assessment municipalities can impose on blighted housing (CGS § 12-169b); and taxes, fees, rents, or benefit assessments set by certain special taxing districts.

### **§ 3 — FORECLOSURE ACTIONS BY ASSIGNEES**

The law allows a municipality, by resolution of its legislative body, to sell its tax liens to third parties (assignees) for a negotiated amount. By law, the assignees have the same powers and rights as the municipality or the municipality's tax collector had the lien not been assigned. Thus, the assignee has the same rights to enforce the lien through foreclosure.

### ***Good Faith Evaluation of Repayment***

Under the bill, before foreclosing on a tax lien, an assignee must do a good faith evaluation of the homeowner's willingness and ability to repay the debt in at least 24 months.

Once the action has begun, the bill requires the assignee to file an affidavit with the court indicating the (1) efforts made to contact the homeowner regarding repayment and (2) good faith evaluation of the homeowner's willingness and ability to repay the debt.

### ***Payoff Statement***

The bill requires the assignee to provide a payoff statement in the

same manner that a mortgagee must provide one to a mortgagor in a mortgage foreclosure situation.

By law, a mortgagee, upon the written request of the mortgagor, the mortgagor's attorney, or other authorized agent, must provide a written payoff statement or reinstatement payment statement to the person requesting such a statement. The mortgagee must do so on or before the date specified in the request, provided the request date is at least seven business days after the date of receipt of the written request (CGS § 49-10a).

**Written Notice**

Under the bill, at least 60 days before beginning a tax lien foreclosure action, the assignee must send written notice, by first class mail, to the holders of all first or second security interests on the property that were recorded before the date on which the taxes became delinquent.

The notice is effective on the date it is sent and must include:

1. the amount of unpaid debt owed to the assignee as of the notice's date;
2. the amount of any attorney's fees and costs incurred by the assignee in enforcing the lien as of the notice's date;
3. a statement of the assignee's intention to foreclose the lien if these amounts are not paid to the assignee within 60 days after the date on which notice is provided;
4. the assignee's contact information (i.e., name, address, telephone number, and email address, if any); and
5. instructions on acceptable means of making a payment.

To send this notice, the assignee may rely on the name and mailing address last recorded for the holder of such interest. If the holder of such interest is a plaintiff in a pending related court case to enforce the

interest, the assignee must provide the written notice to the plaintiff's attorney.

Existing law, unchanged by the bill, requires an assignee to provide written notice of an assignment, within 30 days after the date of the assignment, to any mortgagee (lender) on record as of the date of the assignment.

### ***Attorney's Fees***

The bill limits attorney's fees that may be awarded to an assignee to \$1,500 for an uncontested lawsuit, plus an additional \$100 per hour for work reasonably performed to prosecute a prolonged or complex lawsuit. It specifies that its provisions should not be construed to require a court to award attorney's fees to any party.

## **§§ 4 – 9 — LIEN DEBT ASSISTANCE**

### ***Application***

Under the bill, as is the case under existing law for a mortgage assistance applicant, a homeowner may apply for lien debt assistance payments if he or she (1) has received notice of intent to foreclose or (2) is 60 days or more delinquent on a lien debt or anticipates that he or she will be 60 days or more delinquent based on financial hardship beyond his or her control, provided the authority determines that such mortgagor or homeowner will be so delinquent.

CHFA may refer the applicant to a counseling agency approved by the U.S. Department of Housing and Urban Development. CHFA must notify all lienholders listed on the property within eight business days after receiving the application.

The homeowner must apply using a CHFA form and must complete and sign the application subject to a penalty for false statement. The homeowner must disclose all assets and liabilities.

### ***Eligibility Decision***

CHFA must make an eligibility decision by 30 calendar days after receiving the lien debt assistance application. During this period, the

bill prohibits a judgment of strict foreclosure or foreclosure by sale (see BACKGROUND), except with regard to a condominium association's foreclosure action related to delinquent assessments and fees.

CHFA may not approve lien debt assistance unless:

1. the property is a one-to-four family owner-occupied residence that is the homeowner's principal residence and located in the state;
2. payments under a lien debt are delinquent and the homeowner has been notified by the lienholder of its intention to foreclose;
3. the homeowner is a resident of Connecticut and is suffering financial hardship;
4. the homeowner is able to resume regular tax, usage, or association payments immediately after the emergency assistance payments are provided;
5. the homeowner used the correct application form and disclosed all assets and liabilities;
6. the homeowner has insufficient income or net worth to correct the deficiency;
7. there is a reasonable prospect that the homeowner will be able to repay the emergency assistance within a reasonable time;
8. the lienholder is not otherwise prohibited from foreclosing on the lien;
9. the homeowner has not mortgaged the property for commercial or business purposes;
10. the homeowner has not received lien debt assistance before or if so, has reinstated the lien debt and remained current for the six consecutive months following the reinstatement; and

11. the homeowner meets other procedural requirements.

***Approval, Repayment, and Periodic Review***

The bill generally applies existing law's mortgage assistance approval and repayment processes to the lien debt assistance program, including requirements that CHFA:

1. make monthly emergency lien debt assistance payments directly to the homeowner for a period not longer than 60 months,
2. enter a repayment agreement with the homeowner, and
3. establish procedures to periodically review the homeowner's financial circumstances.

**BACKGROUND*****Foreclosure by Sale***

With a judgment of sale, the court (1) establishes the time and manner of the sale, (2) appoints a committee to sell the property, and (3) appoints three appraisers to determine its value. The borrower may stop the foreclosure proceedings at any time before the sale by paying the balance due on the mortgage. If no such payment is made, the committee must proceed with the sale. The lender may sue to obtain a deficiency judgment (an order that the borrower repay any remaining mortgage balance).

***Strict Foreclosure***

With strict foreclosure, no actual foreclosure sale is held. Instead, the lender goes to court to try and obtain a court order demonstrating the borrower is in default of the mortgage. If successful, the title transfers to the lender immediately. However, the court sets an amount of time in which the borrower may redeem the property. If he or she fails to do so, the title becomes absolute to the lender and the borrower no longer has any claim to the property. The lender then has 30 days to record a certificate of foreclosure, which must contain a description of the property, the foreclosure proceedings, and the

mortgage, along with the date the title became absolute.

**COMMENT**

This bill reduces, from 18% to 8%, the annual interest rate that a municipality must charge on delinquent taxes but it fails to make a conforming change in the section of the statute that requires municipalities to provide notice on taxes due, which must disclose that delinquent taxes are charged an annual interest rate of 18% (CGS § 12-145). The content of the notice is therefore not consistent with the actual interest rate charged under the bill.

**COMMITTEE ACTION**

Banking Committee

Joint Favorable Substitute

Yea 14 Nay 4 (03/15/2016)